

Tabone, Jr., John

# *Response concerning Affidavit*

**From:** Vu, Kim  
**Sent:** Friday, August 25, 2006 9:24 AM  
**To:** Tabone, Jr., John  
**Subject:** RE: Affidavit for case 09933468, Need your input.

John,

I reviewed and agreed with you that there is no establishment of how the code in exhibit A is corresponding to the claimed limitation.

kim

-----Original Message-----

**From:** Tabone, Jr., John  
**Sent:** Thursday, August 24, 2006 10:39 AM  
**To:** Vu, Kim  
**Subject:** FW: Affidavit for case 09933468, Need your input.

Hi Kim,

Got your name of the list. I'd like to get your input on this.

Thanks,

*John J. Tabone, Jr.  
U.S. Patent and Trademark Office  
Art Unit 2138  
Room: RND- 2B61  
Phone: (571) 272-3827*

-----Original Message-----

**From:** Laufer, Pinchus  
**Sent:** Thursday, August 24, 2006 10:15 AM  
**To:** Tabone, Jr., John  
**Cc:** Johnson, Brian L. (SPRE)  
**Subject:** RE: Affidavit for case 09933468, Need your input.

What you say sounds right. They need to show that (a) the code corresponds to the claims and if they want it for RTP that (b) it worked for its intended purpose (testing etc.)

There should be a 2130 contact for 131 practice. Brian will send you the name. I do not have the time now.

-----Original Message-----

**From:** Tabone, Jr., John  
**Sent:** Thursday, August 24, 2006 9:59 AM  
**To:** Laufer, Pinchus  
**Subject:** Affidavit for case 09933468, Need your input.

Hi Pinchus,

Applicant filed an Affidavit for case 09933468. Exhibit A is a copy of source code dated Sept. 14, 2000, which pre-dates my reference of June 20, 2001. Exhibit B is an email to call a meeting to

discuss the invention dated March 20, 2001. Filing date of the Application is 8/20/01. Can you please look at these exhibits and let me know if they are valid? In my opinion, a mere display of a source code file does not explicitly show that the invention worked or was reduced to practice. With that said the meeting email doesn't matter either.

Please let me know what you think and how I should proceed. This amendment is due this bi-week.

Thanks,

*John J. Tabone, Jr.*  
*U.S. Patent and Trademark Office*  
*Art Unit 2138*  
*Room: RND- 2B61*  
*Phone: (571) 272-3827*